

Federal Deductions for Conservation Easement Donations



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Extinguishment

Carpenter v. Commissioner

T.C. Memo. 2013-172; T.C. Memo. 2012-1



“To make our position clear, extinguishment by judicial proceedings is mandatory....we reject [the taxpayer’s] argument that [the Extinguishment Regulation] contemplates any alternative to judicial extinguishment”

Belk v. Commissioner

774 F.3d 221 (4th Cir. 2014)



Treas. Regs offer a single—and exceedingly narrow—exception to the requirement that a CE impose a perpetual use restriction; a CE can be extinguished only in judicial proceeding upon impossibility or impracticality.

Absent these “unexpected and extraordinary circumstances,” real property placed under easement must remain there in perpetuity for the donor to claim a deduction.

Bosque Canyon Ranch v. Commissioner

867 F.3d 547 (5th Cir. 2017)



Bosque Canyon Ranch v. Commissioner

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Dissent: Congress did not intend for possibly enormous tax deductions to be based on the likelihood of continued agreement between the donor and donee as to the land subject to the conservation easement; rather, it specifically and unequivocally required that a qualified conservation easement be perpetual.



Hoffman Properties Pre-Trial Order



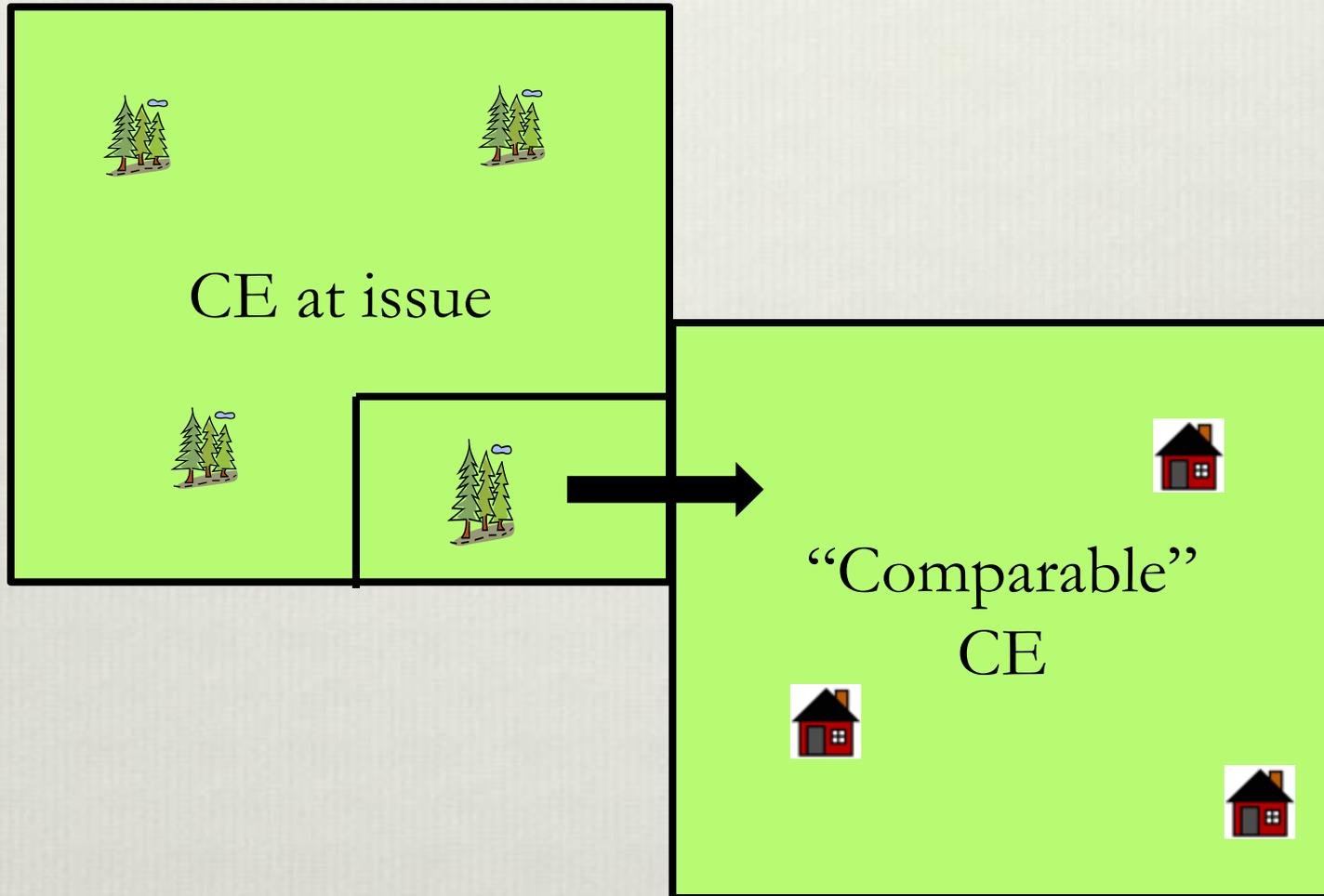
Sample Constructive Denial Clause

Holder agrees to use reasonable diligence to respond to Owner's request within 60 days of delivery.

Holder's failure to respond within the 60 day period shall be deemed a constructive denial, and Owner may seek relief from the courts and recover reasonable fees and costs if a court rules the constructive denial unjustified.

Salt Point Timber v. Commissioner

T.C. Memo. 2017-245



Palmolive Building Investors v. Commissioner

149 T.C. No. 18 (2017)



Kaufman v. Commissioner

687 F.3d. 21 (1st Cir. 2012)



Wendell Falls LLC v. Commissioner

T.C. Memo. 2018-45

1,280 acres

- **4,000 residences**
- **Commercial spaces**
- **Elementary school**



**125
acre
park**

TP expected
“substantial
benefit”

CE had
no value

Atkinson v. Commissioner

T.C. Memo. 2015-236



Atkinson v. Commissioner

T.C. Memo. 2015-236



Atkinson v. Commissioner

T.C. Memo. 2015-236



PBBM Rose-Hill v. Commissioner

Bench Op. (Oct. 7, 2016)



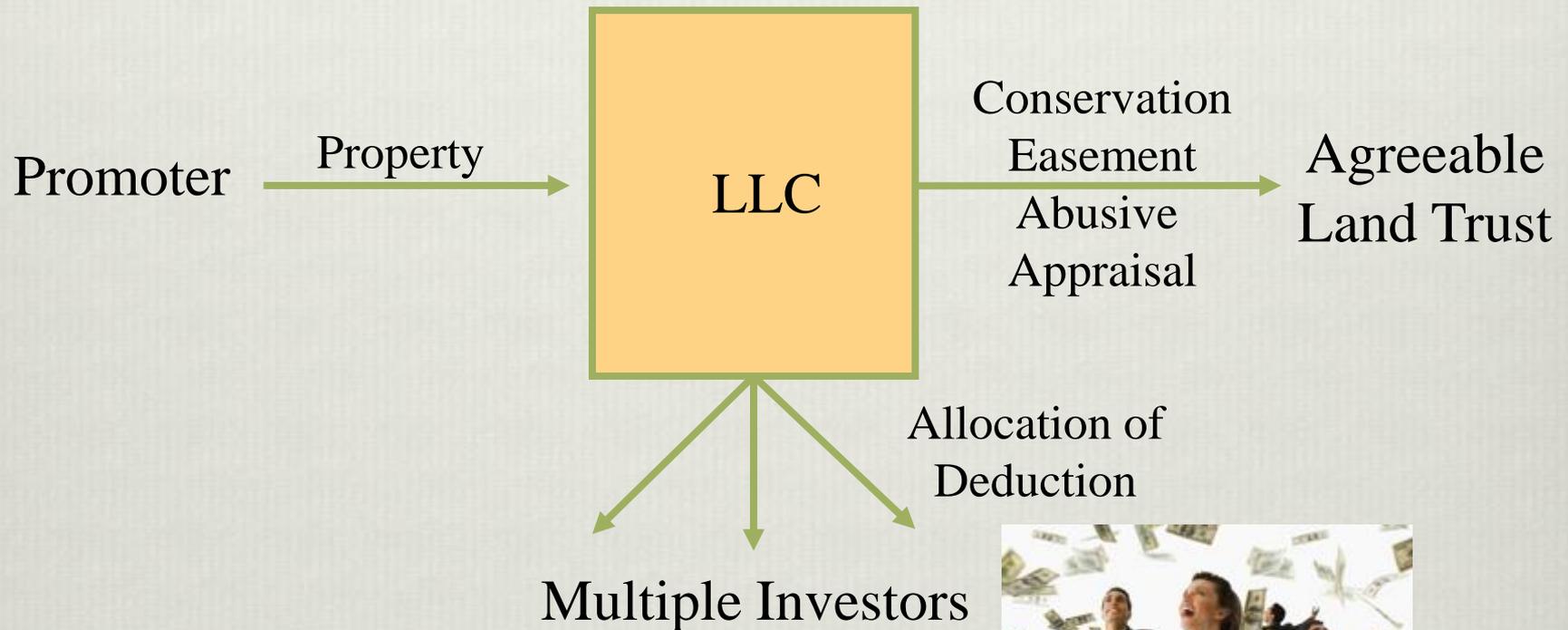
• BACKYARD BIRDS of SOUTH CAROLINA •





Syndicated CE Donation Transactions

“The Business of Conservation”



IRS Notice 2017-10: “Listed Transactions”